IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE P.R.RAMAN
&
THE HONOURABLE MRS. JUSTICE K.HEMA

THURSDAY, THE 21ST JUNE 2007 / 31ST JYAISHTA 1929

RP.No. 539 of 2007(I)

AGAINST THE JUDGEMENT/ORDER IN WPC.14576/2007
.....

PETITIONER/3RD RESPONDENT

T.K.SAKTHIDHARAN, S/O.KUMARAN,
THEKKEKOOTHUMUGHATH, NADAKKAVU P.O.,
UDAYAMPEROOR DESAM, MANAKKUNNAM VILLAGE.

BY ADV. SRI.DENY JOSEPH

RESPONDENTS: PETITIONERS/RESPONDENTS 1 & 2
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1. LAKSHMY KUMARAN, W/O.KUMARAN,
THEKKEKOOTHUMUGHATH, NADAKKAVU P.O.
UDAYAMPEROOR DESAM, MANAKKUNNAM VILLAGE.

2. SHYALAJA, D/O.KUMARAN,
THEKKEKOOTHUMUGHATH, NADAKKAVU P.O.
UDAYAMPEROOR DESAM, MANAKKUNNAM VILLAGE.

3. KANKA KARTHIKEYAN, D/O.KUMARAN,
KAVUNGUMKOOTTATHIL, ELAMAKKARA P.O.
ELAMAKKARA VILLAGE.

4. GIRIJA SIVADASAN, D/O.KUMARAN,
THANDASERILPARAMBIL, KOMBARA,
ERNAKULAM VILLAGE.

5. THE S.I. OF POLICE, UDAYAMPEROOR,
ERNAKULAM DISTRICT.

6. THE COMMISSIONER OF POLICE,
COCHIN CITY, ERNAKULAM.

BY ADV. SMT.AYSHA YOUSEFF

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON 21/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

P.R.RAMAN & K.HEMA, JJ.

R.P.NO. 539 of 2007
in
W.P.(C).NO.14576 OF 2007

Dated this the 21st day of June, 2007

O R D E R

Raman, J.

In the facts and circumstances of the case, we allow this Review Petition and the Writ Petition itself is heard.

2. According to the respondents, the property, where the construction is made, is jointly owned by the parties and there is also a partition suit pending. As such, if the petitioners in the Writ Petition are permitted to continue the construction, they cannot claim any better right , especially since the matter is pending before the civil court. Learned counsel for the petitioners on the other hand submitted that though the third respondent sought an injunction in the civil court in the above suit, no interim order was passed. The same is posted along with the suit. It was, in such circumstances, that this court granted police protection as per an interim order dated 8th May, 2007.

3. Having heard both sides and in view of the fact that the construction is almost completed, it will not be proper in the interest

of either party to withdraw the protection at this stage. In such circumstances, we make the interim order absolute. However, we make it clear that the construction, if any, made in the property with the aid of police as ordered by this court will not confer any better right on the petitioners and the parties would be governed by the final decision to be rendered by the civil court.

The Review Petition is disposed of as above.

P.R.RAMAN, JUDGE

K.HEMA, JUDGE

vgs.